

Assembly Bill No. 174

Passed the Assembly August 24, 2009

Chief Clerk of the Assembly

Passed the Senate August 17, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 35511, 35706, 35708, 35710, and 35711 of, to amend and renumber Section 35535 of, and to add Sections 35710.3, 35780.1, and 35787 to, the Education Code, relating to school district reorganization.

LEGISLATIVE COUNSEL'S DIGEST

AB 174, Carter. School district reorganization.

(1) Existing law defines an action to reorganize school districts as an action to form, dissolve, or lapse a school district, to annex all or part of the territory of a district to another district, to transfer all or part of a district to another district, the unification or deunification of a school district, or to otherwise alter the boundaries of a school district, or any combination of those actions.

This bill would revise and clarify that definition.

(2) Existing law prescribes the procedure to reorganize school districts, including the filing of a petition with the county superintendent of schools by specified persons. Existing law authorizes a county committee on school district reorganization to approve petitions to transfer territory, other than petitions to transfer uninhabited territory from one district to another, or to transfer inhabited territory of less than 10% of the assessed valuation of the district from which the territory is being transferred, if it finds that certain specified conditions substantially are met. Existing law requires the committee, if it approves such a petition, to notify the county superintendent of schools, who in turn is required to call an election in the territory of the districts, as determined by the county committee, to be conducted at the next election of any kind in accordance with specified statutory provisions regarding elections.

This bill would authorize a county committee to approve a petition to form one or more school districts if specified conditions are met, including the granting of approval authority by each county superintendent of schools with jurisdiction over an affected school district that elects to grant approval authority to the county committee on school district reorganization for which he or she is

secretary and the governing board of each of the affected school districts consenting to the petition.

(3) Existing law provides that any school district which has been organized for more than 3 years shall be lapsed, as provided, if the number of registered electors in the district is less than 6 or if specified conditions are satisfied.

For purposes of these provisions regarding lapses, this bill would define lapse as an action to dissolve a school district and annex the entire territory of that district to one or more adjoining school districts. The bill would provide that an action to lapse a school district is subject to specified general statutory provisions regarding the reorganization of school districts.

(4) The bill also would make related technical and conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 35511 of the Education Code is amended to read:

35511. An “action to reorganize districts” means either of the following:

(a) An action to form a new school district, which is accomplished through any of, or any combination of, the following:

(1) Dissolving two or more existing school districts of the same kind and forming one or more new school districts of that same kind from the entire territory of the original districts.

(2) Forming one or more new school districts of the same kind from all or parts of one or more existing school districts of that same kind.

(3) Unifying school districts, including the consolidation of all or part of one or more high school districts with all or part of one or more component school districts into one or more new unified school districts.

(4) Deunifying a school district, including the conversion of all or part of a unified school district into one or more new high school districts, each with two or more new component districts.

(b) An action to transfer territory, including the transfer of all or part of an existing school district to another existing school district.

SEC. 2. Section 35535 of the Education Code is amended and renumbered to read:

35786. An order of a county committee attaching the territory of a lapsed school district to one or more adjoining school districts shall be effective for all purposes on the date of the order.

SEC. 3. Section 35706 of the Education Code is amended to read:

35706. (a) Within 120 days of the commencement of the first public hearing on the petition, the county committee shall recommend approval or disapproval of a petition for unification of school districts or for the division of the territory of an existing school district into two or more separate school districts, as the petition may be augmented, or shall approve or disapprove a petition for the transfer of territory, as the petition may be augmented.

(b) The 120-day period for approving or disapproving a petition pursuant to Section 35709 or 35710 shall commence after certification of an environmental impact report, approval of a negative declaration, or a determination that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 4. Section 35708 of the Education Code is amended to read:

35708. Except for a petition to form one or more school districts approved pursuant to subdivision (b) of Section 35710, a petition transmitted pursuant to Section 35707, including the plans and recommendations included therein, if any, together with the recommended approval or disapproval and the plans and recommendations, if any, of the county committee shall be heard by the state board as provided in Article 4 (commencing with Section 35750).

SEC. 5. Section 35710 of the Education Code is amended to read:

35710. (a) For all other petitions to transfer territory, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 substantially are met, the county committee may approve the petition and, if approved, shall notify the county superintendent of schools who shall call an election in the territory of the districts

as determined by the county committee, to be conducted at the next election of any kind in accordance with either of the following:

(1) Section 1002 of the Elections Code and Part 4 (commencing with Section 5000) of Division 1 of Title 1.

(2) Division 4 (commencing with Section 4000) of the Elections Code.

(b) A county committee also may approve a petition to form one or more school districts if the requirements of subdivision (a), and the following conditions, are met:

(1) Each county superintendent of schools with jurisdiction over an affected school district elects to grant approval authority to the county committee on school district organization for which he or she is secretary pursuant to Section 4012, and that county committee chooses to accept that authority.

(2) The governing board of each of the affected school districts consents to the petition.

(3) The secretary of the county committee designated as the lead agency pursuant to Section 35710.3 or subdivision (a) of Section 35520.5 enters into an agreement on behalf of the county committee for any or all affected school districts to share among those districts the costs of complying with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A petition to form one or more school districts that meets the conditions described in subdivision (b), but is not approved by the county committee, shall be transmitted to the state board pursuant to subdivision (a) of Section 35707 and heard by the state board pursuant to Section 35708. The state board, rather than the county committee, shall be the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for each petition transmitted pursuant to this subdivision, including a petition disapproved by the county committee after determining the project is exempt from the California Environmental Quality Act pursuant to paragraph (5) of subdivision (b) of Section 21080 of the Public Resources Code.

SEC. 6. Section 35710.3 is added to the Education Code, to read:

35710.3. A county committee shall be the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for each petition it considers pursuant to Sections 35709 and 35710, unless the state board is the lead agency pursuant to subdivision (c) of Section 35710.

SEC. 7. Section 35711 of the Education Code is amended to read:

35711. (a) A person questioning the finding of the county committee pursuant to Section 35709 or 35710 that the action to transfer territory or form one or more school districts will not adversely affect the racial or ethnic integration of the schools of the districts affected, may appeal a decision based on that finding. The appeal shall be made to the state board within 30 days. The appeal shall be based upon factual and statistical evidence.

(b) If the state board denies the appeal, the decision of the county committee shall stand. If the state board approves the appeal, it shall review the findings of the county committee at a regular meeting of the state board.

(c) The state board shall notify the county committee of its decision on the appeal. If the state board approves the appeal, the county committee shall transmit a copy of the proceedings to the state board within 30 days after receipt of notice. The state board shall review the transcript, considering all factors involved. The state board may reverse, or may affirm, the decision of the county committee, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county committee to reconsider its decision and for this purpose to hold another hearing.

SEC. 8. Section 35780.1 is added to the Education Code, to read:

35780.1. For purposes of this article, “lapse” means an action to dissolve a school district and annex the entire territory of that district to one or more adjoining school districts.

SEC. 9. Section 35787 is added to the Education Code, to read:

35787. Except as otherwise provided in this article, an action to lapse a school district is subject to the provisions of Chapter 3 (commencing with Section 35500).

Approved _____, 2009

Governor